IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

WP(C).No. 28447 of 2005(J)

PETITIONER:

K.SALIM, S/O.KASSIM, ASSISTANT ENGINEER (RETIRED), KERALA STATE ELECTRICITY BOARD, CHARUVIL HOUSE, KADAMTHURUTHU, KUTHIATHODE P.O., ALAPUZHA DISTRICT.

BY ADV. SRI.K.PRAVEEN KUMAR

RESPONDENTS:

1. **KERALA STATE ELECTRICITY BOARD, REP. BY SECRETARY, VYDYUTHI BHAVAN, THIRUVANANTHAPURAM.**
2. **THE EXECUTIVE ENGINEER, ELECTRICAL DIVISION, CHERTHALA.**
3. **THE CHIEF INTERNAL AUDITOR, KERALA STATE ELECTRICITY BOARD, VYDYUTHI BHAVAN, THIRUVANANTHAPURAM.**
4. **THE DEPUTY CHIEF ENGINEER, ELECTRICAL CIRCLE, ALAPUZHA.**

BY ADV. SRI.K.S.ANIL, SC, KSEB
SRI. ASOK M.CHERIYAN, SC, KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.28447/2005 J

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE PROCEEDINGS OF THE 3RD RESPONDENT DTD. 18/12/2003.**

EXT.P2: **COPY OF THE REPORT OF THE CHIEF ELECTRICAL INSPECTOR ON 5/05/1992.**

EXT.P3: **COPY OF THE JUDGMENT IN O.S.215/94 OF SUB JUDGE, CHERTHALA.**

EXT.P4: **COPY OF THE WRITTEN STATEMENT FILED BY THE BOARD.**

EXT.P5: **COPY OF THE LETTER SENT BY THE 2ND RESPONDENT TO THE 1ST RESPONDENT DTD. 4/04/2003.**

EXT.P6: **COPY OF THE REPLY SENT BY THE 1ST RESPONDENT TO THE PETITIONERS ADVOCATE DTD. 19/05/93.**

EXT.P7: **COPY OF THE REPRESENTATION SENT BY THE PETITIONER TO THE 1ST RESPONDENT DTD.21/11/03.**

EXT.P8: **COPY OF THE JUDGMENT IN WP(C) 1375/04 OF THIS HON'BLE COURT.**

EXT.P9: **COPY OF THE ORDER OF THE 1ST RESPONDENT DTD. 28/02/2004.**

/TRUE COPY/

P.A.TO JUDGE

KSS

ANTONY DOMINIC, J.
==========
W.P.(C) NO. 28447 OF 2005
==========

Dated this the 2nd day of August, 2007

J U D G M E N T

Petitioner has retired as an Assistant Engineer from the service of the Kerala State Electricity Board on 30.10.2003. As his pensionary benefits were withheld, he approached this Court by filing WP(C) No.1375 of 2004, which was disposed of by Ext.P8 judgment directing consideration of the representation made by him. Consequently, Ext.P9 order was issued by the Secretary of the Board directing release of the pensionary benefits of the petitioner, but however withholding his DCRG. It is stated that the Board had ordered to conduct an enquiry to find out the person responsible for an accident and therefore petitioner's request for release of DCRG could be considered at that stage. It is seeking to quash Ext.P9 and for the release of the DCRG that this writ petition is filed.

2. It is pointed out by the counsel for the petitioner that the accident made mention of in Ext.P9 is one which occurred on 4/5/92, which resulted in an injury to a person. It is stated that

the injured had filed a Civil Suit for damages which resulted in Ext.P3 judgment in OS No.215/1994 on the file of Sub Judge, Cherthala. In that suit, court had entered a finding in Para 16 thereof that the defendants 3 and 4 therein are not personally liable for the compensation due to the plaintiff therein and that the Board was liable for the same. Reference to Ext.P3 also disclose that the petitioner was the third defendant in the suit. It is further pointed out that Board had filed an appeal against Ext.P3 judgment before the District Court, Alleppey and that the Appellate Court reduced the compensation to Rs.85,000/- and that accepting the judgment of the District Court, compensation has been paid. Since the Civil Court had held that the officers of the Board were responsible for the accident, the Board had ordered to conduct an enquiry to locate the person responsible for the same and that is the enquiry mentioned in Ext.P9 .

3. Counsel for the petitioner made available a copy of the note issued by the Secretary of the Board to the Chief Engineer (HRM) dated 26/4/2007, which discloses that in a Vigilance Enquiry that was conducted, one Mr.V.S.Chandran, Sub Engineer was found to be responsible for the accident and that, action is

ordered to be initiated against the aforesaid Sri.V.S.Chandran for recovery of the amount paid as damages pursuant to the judgment and decree in the Civil Suit.

4. From the facts as stated herein above, it is evident that neither in the civil suit nor in the vigilance enquiry that was conducted on the orders of the Board, has the petitioner been found responsible for the accident that occurred on 4/5/92. In such factual background, I do not see any reason why DCRG that is due to the petitioner should be withheld any further. Hence, I hold that the petitioner is entitled to be released the DCRG that is due to him and the respondents shall ensure that the admissible amount of DCRG is released to the petitioner within a period of two months from the date of receipt of a copy of the judgment.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE.

Rp